

REMARKS

I. Introduction

Reconsideration of the above-identified application is respectfully requested. Claims 1, 4, 6, 14, 15, 19, and 23 have been amended and Claims 26 and 27 added by way of this amendment. Therefore, Claims 1-19 and 23-27 are currently pending in this application.

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 102(b) and Claims 5-9 and 23 were rejected under 35 U.S.C. § 103(a) in an Office Action mailed September 24, 2003 (hereinafter "Office Action").

Applicant thanks the Examiner for the notice of allowability of Claims 10-19 and 24. Claims 2 and 25 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

II. Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,332,709, issued to Kowalski (hereinafter "Kowalski") and by U.S. Patent No. 2,595,705, issued to Rosecrans (hereinafter "Rosecrans"). Applicant respectfully disagrees. Claim 1 recites a "pipe section includ[ing] indicia for guiding cutting of the pipe section at a predetermined location." In contrast, Kowalski teaches a union with provision for misalignment having an equipment unit 10 connected in a pipeline 12 by two pipe unions 14 and 16. However, Kowalski fails to teach or suggest indicia for guiding cutting. Likewise, Rosecrans teaches placing an insert fitting 12 in a pipeline 10 and 11 by cutting the pipeline 10 and 11 a distance slightly greater than the over-all length of the fitting. Although Rosecrans teaches the cutting of the pipeline 10 and 11, Rosecrans does not teach or suggest the use of indicia for guiding the cutting of the pipeline 10 and 11.

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It is a well-settled axiom of patent law that in order to anticipate a claim, a reference must teach each and every element of that claim. Each and every element of a claim must either be expressly or inherently described in a prior art reference.¹ Thus, if every element of the claim is not described or suggested by the reference, the claim cannot be rejected under 35 U.S.C. § 102(b) as being anticipated by the prior art. Further, the elements described or suggested in the reference must be arranged as required by the claim, although the terminology need not be identical.²

Inasmuch as Kowalski and Rosecrans fail to teach indicia for guiding the cutting of the pipe section as recited in Claim 1, applicant respectfully submits that the rejection of Claim 1 and those claims depending therefrom under 35 U.S.C. § 102(b) is improper. Thus, applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of Claims 1, 3 and 4 be withdrawn.

III. Claim Rejections Under 35 U.S.C. § 103(a) - Kowalski in view of McLaughlin

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kowalski in view of U.S. Patent No. 932,805 issued to McLaughlin (hereinafter "McLaughlin"). Applicant respectfully traverses the rejection of these claims. Claims 5 and 6 depend from Claim 1. For at least the same reasons argued above for Claim 1, applicant asserts that Kowalski or McLaughlin do not teach or suggest, individually or in combination, each and every element of Claims 5 and 6. Inasmuch as all elements of Claims 5 and 6 are not taught or suggested by Kowalski or McLaughlin, applicant submits that Claims 5 and 6 are allowable and that the rejections of Claims 5 and 6 should be withdrawn.

¹ *Verdegal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

² *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

IV. Claim Rejections Under 35 U.S.C. § 103(a) - Kowalski in view of Thweatt

Claims 7 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kowalski in view of U.S. Patent No. 5,724,478 issued to Thweatt (hereinafter "Thweatt"). Applicant respectfully traverses the rejection of these claims. Claim 7 depends from Claim 1. For at least the same reasons argued above for Claim 1, applicant asserts that Kowalski or Thweatt do not teach or suggest, individually or in combination, each and every element of Claim 7. Inasmuch as all elements of Claim 7 are not taught or suggested by Kowalski or Thweatt, applicant submits that the rejection of Claim 7 should be withdrawn.

With regard to Claim 23, amended Claim 23 recites "wherein the first close fit fittings each include an engagement surface adapted to couple to the second close fit fittings of the heater device, wherein when the pipe section is coupled to the tubing, the engagement surfaces are disengaged from any fitting." Applicant respectfully submits that these elements are not taught or suggested by Kowalski or Thweatt, either in combination or individually.

Moreover, Kowalski teaches two pairs of fittings 31 and 34, both pairs of fittings having engagement surfaces which are engaged by a fitting when the center segment is coupled to the tubing, in stark contrast to Claim 23. Thweatt teaches two pairs of fittings 140 and 141 disposed on a liquid heater assembly (not a pipe section), wherein the engagement surfaces 146 are engaged by a fitting when the liquid heater assembly is coupled to tubing. Therefore, applicant submits Claim 23 is in condition for allowance since Kowalski and Thweatt, individually or in combination, fail to teach or suggest each and every element as set forth in amended Claim 23. Accordingly, applicant respectfully requests that the rejection of Claim 23 under 35 U.S.C. § 103(a) be withdrawn.

V. Claim Rejections Under 35 U.S.C. § 103(a) - Kowalski in view of Luff

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kowalski in view of U.S. Patent No. 2,297,966 issued to Luff (hereinafter "Luff"). Applicant respectfully traverses the rejection of Claims 8 and 9. Claims 8 and 9 depend from Claim 1. For at least the same reasons argued above for Claim 1, applicant asserts that Kowalski or Luff do not teach or suggest, individually or in combination, each and every element of Claims 8 and 9. Inasmuch as all elements of Claims 8 and 9 are not taught or suggested by Kowalski or Luff, applicant submits that the rejections of Claims 8 and 9 should be withdrawn.

VI. New Claims 26 and 27

New Claims 26 and 27 have been added to further point out and distinctly claim the novel aspects of the embodiments of the present invention. Applicant submits that the prior art, alone or in combination, does not teach or suggest the present invention as recited in Claims 26 and 27. Therefore, applicant submits that Claims 26 and 27 are in condition for allowance.

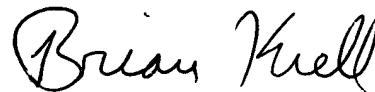
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CONCLUSION

In view of the foregoing amendments and remarks above, applicant respectfully submits that the present application is in condition for allowance. Consequently, early and favorable action allowing these claims and passing this application to issue is respectfully solicited. If any questions remain that may be expeditiously resolved by telephone, Examiner is invited to contact the applicant's undersigned attorney at the number below.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

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